IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2832 OF 2004

Ganesh Pharmaceuticals .. Petitioner.

V/s.

Dy.Commissioner of Income Tax,
Range 17(2)C-10 & Another .. Respondents.

Mr.V.J. Pandit i/b. P.P. Prabhu for the petitioner.

Mr.R.V. Desai, Senior counsel with Ms.S.V. Bharucha i/b. P. Kapur for the respondents.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 3RD NOVEMBER, 2004.

P.C. :

Heard Mr.V.J. Pandit, the learned counsel for the petitioner.

2. The petitioner seeks to challenge the notices issued under Section 148 of the Income Tax Act, 1961 dated June 21, 2004.

4. In GKN Drive shafts (India) Limited V/s. Income-Tax Officer & Others [259 ITR 19], the Supreme court observed thus :

> ". We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice

> under section 148 of the Income-tax Act is issued, the proper course of action for the noticee is to file a return and if he so desires, to seek reasons for issuing notices. The Assessing Officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the Assessing Officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the Assessing Officer has to dispose of the objections, if filed, by passing a speaking order, before proceeding with the assessment in respect of the abovesaid five assessment years."

5. It is not in dispute before us that the reasons for issuing notices have been furnished by the Assessing Officer to the petitioner. In that event, as observed by the Supreme Court, the petitioner must file objections to the issuance of the notices. Upon such objections being filed, the Assessing Officer shall dispose of the same by speaking order before proceeding with the assessment in respect of the concerned assessment years.

6. With the aforesaid direction, we dispose of the writ petition.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)